

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

**CREATIVE GIFTS, INC.,
FASCINATIONS TOYS & GIFTS, INC.,
and WILLIAM HONES,**

Plaintiffs,

CIV. No. 97-1266 LH/WWD

v.

**UFO,
MICHAEL SHERLOCK,
and KAREN SHERLOCK,**

Defendants.

FINAL JUDGMENT AND PERMANENT INJUNCTION

THIS MATTER having come before the Court upon the Amended Complaint, filed on April 22, 1999, the Court having reviewed the Complaint and all other matters of record, having heard the arguments and evidence at a bench trial on June 2 and 3, 1999, and being otherwise knowledgeable of the premises, it is hereby:

FINALLY ORDERED, ADJUDGED, AND DECREED as follows:

1. The Court's Findings of Facts and Conclusions of Law, filed contemporaneously with this Final Judgment and Permanent Injunction, are incorporated by reference herein.
2. Plaintiff's trademark is infringed by the Defendants' continued use of the domain name "levitron.com", because such use is likely to cause confusion in the marketplace concerning the source of any anti-gravity tops sold from that website.
3. Plaintiffs have no adequate remedy at law, and have and will continue to suffer irreparable harm if Defendants continue their unauthorized use and misappropriation of the mark

thereby precluding Plaintiffs from using the mark as an Internet domain name. Plaintiffs are, therefore, entitled to injunctive relief under 15 U.S.C. § 1116(a) against such infringement and to transfer of the levitron.com domain name to Plaintiff Creative Gifts.

4. The public interest will be served by issuing the injunctive relief requested by Plaintiffs.

Relief Granted

5. Pursuant to 15 U.S.C. § 1116(a), Defendants, their officers, agents, servants, employees and attorneys, and those persons who receive actual notice of this Final Judgment and Permanent Injunction are hereby mandatorily and permanently enjoined from using or infringing in any manner Plaintiffs' registered trademark, "LEVITRON" and are permanently enjoined from asserting any further interest in the "levitron.com" domain name.

6. Pursuant to 15 U.S.C. § 1116(a), Defendants, their officers, agents, servants, employees and attorneys, and those persons who receive actual notice of this Final Judgment and Permanent Injunction are hereby directed to immediately release to Plaintiffs their interest in the Internet domain name "levitron.com"; to immediately relinquish and transfer all interests in said domain name to Plaintiffs; to execute all documents necessary to immediately effect such transfer of the domain name to Plaintiffs; and to immediately remove all material currently posted at the "levitron.com" website.

7. Pursuant to 15 U.S.C. § 1116(a), Defendants, their officers, agents, servants, employees and attorneys, and those persons who receive actual notice of this Final Judgment and Permanent Injunction are hereby ordered to immediately cease all direct or indirect use of the word "levitron" in the Defendants' Internet identification, domain name, advertising, text, operation, or maintenance of any Internet site, or in any communications over the Internet in

relation to business activities, or in the provision of any services through the Internet.

WHEREFORE, Defendants, their officers, agents, servants, employees and attorneys, and those persons who receive actual notice of this Final Judgment and Permanent Injunction are hereby permanently enjoined and restrained from:

(a) using the mark LEVITRON or any other mark confusingly similar to the mark in connection with the manufacture, sale, advertising, or distribution of magnetic levitating devices or instructional videos for magnetic levitating devices;

(b) otherwise infringing or diluting Creative Gifts' LEVITRON trademark;

(c) affixing, applying or using in connection with the sale of any goods a false designation, description or representation, including words or other symbols tending to falsely designate, describe or represent such goods as being legitimate Creative Gifts' products or otherwise being associated with or originating with Creative Gifts; and

This Final Judgment adjudicates all right and liabilities of the parties.

IT IS SO ORDERED.



U. S. DISTRICT COURT JUDGE